



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

March 21, 1991

Mr. Philip W. Barnes
Commissioner of Insurance
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR91-146

Dear Mr. Barnes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11794.

The State Board of Insurance (the board) received an open records request for all of its records pertaining to its disciplinary action against a named insurance agent. You state that the board has released most of the requested records; you seek to withhold, however, certain internal memoranda and "investigator case notes" pursuant to section 3(a)(11) of the Open Records Act.

Section 3(a)(11) of the act excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the board's deliberative process. Open Records Decision No. 464 (1987). Section 3(a)(11) does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 450 (1986). If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982). You have marked in brown the information you seek to withhold; we have high-lighted in yellow those portions of the interagency memoranda and case notes that come under the protection of section 3(a)(11); the remaining information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-146.

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/RWP/lcd

Ref.: ID# 11794
ID# 11938

Enclosures: Marked documents

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